

Name as shown on return

Federal Employer I.D.

**Schedule WE: Water's Edge Method Income Schedule**

1. Federal taxable income (Consolidated Federal Form 1120, Line 30) ..... (LA)	1		<b>Worksheets containing details of Lines 2, 3, 4 and 5 are required.</b>
2. Income or loss not included in Line 1 from affiliated corporations required to file a Federal income tax return .....	2		
3. Reversal of intercompany eliminations between water's edge corporations and non-water's edge corporations .....	3		
4. Intercompany eliminations for water's edge group corporations .....	4		
5. Total foreign dividends included in Line 1 .....	5		
6. Taxable income or loss included in Line 1 or 2 from 80/20 corps. ....	6		
7. Balance (Add Lines 1, 2 and 3 then subtract Lines 4, 5 and 6) .....	7		
8. Foreign dividends to be included in water's edge income (Multiply Line 5 by 30%) (See General Definitions and enter amount on Line 8)	8		
9. Total net book income of 80/20 corporations (Attach worksheet)	9		
10. Net book income of 80/20 corporations to be included in water's edge income (Multiply Line 9 by 30%) (See General Definitions and enter amount on Line 10)	10		
11. Total water's edge income (Add Lines 7, 8 and 10. Enter amount here and on Page 1, Line 1, and check the box entitled "Water's Edge Method.") ..... (WE)	11		

**Water's Edge Method Election Instructions**

A corporation required to file its North Dakota return using the worldwide unitary combined report method must do so unless it elects to apportion its income using the water's edge method. A corporation elects and maintains the water's edge method by checking the box entitled "Water's Edge Method" on Page 1, Line 1, and completing Schedule WE. A corporation electing the water's edge method must comply with all of the following:

a. The election must be made on the return as originally and timely filed. b. The corporation may not reduce taxable income for Federal taxes deducted under N.D.C.C. § 57-38-01.3(1)(c). c. The water's edge election is binding for five consecutive taxable years upon making the election. d. The corporation must file with the Tax Commissioner a domestic disclosure spreadsheet the first year the property, payroll, or sales in foreign countries exceed ten million dollars and total assets exceed two hundred fifty million dollars, and every third year thereafter provided the property, payroll, or sales in foreign countries exceed ten million dollars and total assets exceed two hundred fifty million dollars. The domestic disclosure spreadsheet must be filed by a corporation with its North Dakota income tax return. However, if the information is not available when the return is filed, a corporation may file the spreadsheet within six months after the due date of the return, including any extensions. The form for complying with the spreadsheet requirement must be obtained from the Office of State Tax Commissioner.

A corporation electing the water's edge method must include only the apportionment factors and statutory adjustments of the water's edge group.

**Schedule WE General Definitions**

**"Water's edge group"** includes affiliated corporations incorporated in the U.S., excluding 80/20 corporations, affiliated corporations incorporated in a possession of the U.S., DISCs, FSCs, export trade corporations and foreign affiliated corporations which meet a defined minimum of U.S. activity.

**"Affiliated corporation"** means a parent corporation and any corporation of which more than fifty percent of the voting stock is owned directly or indirectly by the parent corporation or another member of the water's edge group

**"Reversal of intercompany eliminations between water's edge corporations and 80/20 corporations"** means the reversal of eliminations made between water's edge corporations and 80/20 corporations that are included in the federal consolidated return. Dividends, interest, royalties, capital gains and losses, intercompany profit on sales, etc. between water's edge corporations and 80/20 corporations that have been eliminated in preparing the consolidated federal return must be reversed.

**"Intercompany eliminations for water's edge group corporations"** are eliminations of intercompany transactions between companies included in line 1 and companies included in line 2.

**"80/20 corporation"** is a corporation that is incorporated in the U.S., is eligible to be included in the Federal consolidated return as defined in N.D.C.C. § 57-38.4-01(5) and has eighty percent of its average property and payroll assigned to locations in foreign countries.

**"Foreign dividends"** means any dividend received by a member of the water's edge group from any affiliated corporation incorporated outside the fifty states and District of Columbia, including amounts included in income computed under sections 951 through 954 of the Internal Revenue Code of 1986, as amended.

**"Net book income of an 80/20 corporation"** means net book income for financial statement purposes. However, a corporation's net book income cannot be offset by a net book loss from another 80/20 corporation. In addition, when calculating net book income, an expense cannot be taken for Federal income taxes that are eliminated through the application of foreign tax credits.

**"Recision of a water's edge election"**. A corporation's water's edge election is rescinded if:

- It has had more than 50% of its voting stock acquired by a nonaffiliated corporation.
- It was formed as the result of a reorganization or spinoff and is no longer a member of the water's edge group.
- It is completely liquidated. The water's edge election of any corporation receiving liquidated assets is not affected.

**Additional Information Regarding the Water's Edge Method Is Contained In North Dakota Century Code ch. 57-38.4 and North Dakota Administrative Code ch. 81-03-05.2.**